

Jesse Alan Ross

Name

HOSP P.O. Box 650

Indian Springs NV 89010

#1095756

Prison Number

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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Jesse Alan Ross

Plaintiff,

vs.

E.A. Thompson,

Jennifer Nash

Brian Williams

Harold Wickham

Defendant(s).

**2:18-cv-01992-JAD-CWH**

CIVIL RIGHTS COMPLAINT

PURSUANT TO

42 U.S.C. § 1983

28 USC § 1367; NRS 41.031, 41.032,  
41.0322

**A. JURISDICTION**

- 1) This complaint alleges that the civil rights of Plaintiff, Jesse Ross,  
(Print Plaintiff's name)

who presently resides at 22010 N.V. Coldcreek Rd Indian Springs 89010 were

violated by the actions of the below named individuals which were directed against

Plaintiff at High Desert Indian Springs on the following dates  
(institution/city where violation occurred)

1-23-18 to 3-27-18 \_\_\_\_\_, and \_\_\_\_\_  
(Count I) (Count II) (Count III)

6) Defendant JAMES OZURENDA resides at SAME AS NO: 5  
 (full name of first defendant) (address if first defendant)  
 and is employed as NDOC Director. This defendant is sued in his/her  
 (defendant's position and title, if any)  
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was  
 acting  
 under color of law: SAME AS NO: 1

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343 (a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

28 USC § 1367 supplemental Jurisdiction over state  
LAW claims, NRS 41.031

#### B. NATURE OF THE CASE

1) Briefly state the background of your case.

This action Address conditions of confinement  
@ Nevada Department of Correction, ("NDOC"),  
High Desert State Prison ("HOSP") Administrative  
segregation ("AS") in Relation to denial  
of outdoor Recreation / Exercise yard  
with State Law counterparts, Requesting  
monetary, declaratory, Injunctive & costs

#### C. CAUSE OF ACTION

COUNT I

The following civil rights has been violated: denial of outdoor exercise,  
A Violation of the 8<sup>th</sup> Amendment, U.S. Const.

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Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendants: E.A. Thompson; Jennifer Nash; Brian  
Williams; Harold Wickham.  
On 1-23-18, Plaintiff was transferred from unit  
11-E-27-A (A protective segregation unit  
unit ["PSU"]), to unit 5-D-40, A Red  
tag cell, or Ad-seg-cell. In unit 5-D-40  
Plaintiff received No dayroom Activities, A  
shower 3 times per week, No visits, NO  
LAW Library (direct access), AND A highly  
restrictive environment, Atypical in comparison  
to "PSU". In FACT, Plaintiff was subjected  
to 24 hours 7 days A week in-cell-  
Solitary Confinement. From 1-23-18 to  
3-27-18. Plaintiff was confined in solitary  
confinement with NO outdoor exercise yard.  
This 64 days of NO yard caused Plaintiff substantial  
Physiological & Psychological Harm. Plaintiff  
is clinically diagnosed with (1) Depression (2) Anxiety.  
Plaintiff is on the Maximum dose of

1 Psychotropic medication for Depression (45 mg of  
 2 Remeron) and Anxiety (30 mg of Buspar), twice daily  
 3 During this period of confinement Plaintiff did  
 4 Not go to the Available "Dog Run" yard,  
 5 offered; Because there was no water or  
 6 Bathroom Access on this "Dog Run yard".  
 7 (See *Henrys-v-Techumne* 413 F.3d 1036 [9<sup>th</sup> Cir  
 8 2005]), And when offenders are out on this  
 9 [Satellite] "Dog Run yard" offenders are often  
 10 Left out there for hours 1-3 hrs with  
 11 No Access to water/toilet. As a result of  
 12 Not having Access to this yard Plaintiffs  
 13 mental Health Issues became much worse Plaintiff  
 14 experienced suicidal Ideation, debilitating  
 15 depression, Anxiety/Panic Attacks, Nightmares,  
 16 and experienced significant Muscle Atrophy.  
 17 Furthermore Plaintiff had A constitutional  
 18 right to 8 hours of yard per week  
 19 (*Adams-v-wulf* 624 F. Supp, 1036  
 20 *Davis* 1985; *Toussaint-v-mcCarthy*  
 21 597 F. Supp 1388 @ 1402, 1412 N.D. Cal. 1984 -  
 22 Affirmed as to yard 801 F.2d 1080 9<sup>th</sup> Cir  
 23 -1986) And 42 day or 6 weeks is the  
 24 threshold for A Constitutional claim IN Re:  
 25 Yard (*Lopez-v-smith* 203 F.3d 1122  
 26 @ 1133 N.15 7<sup>th</sup> Cir 2000; *Allen-v-Sakai*  
 27 48 F.3d 1082 9<sup>th</sup> Cir 1995), *Adams-v-wulf*

1 624 F.Supp 1036 D. Nev 1985). This is  
2 Not an isolated occurrence, as Plaintiff was  
3 Denied yard from 12-18-12 to 10-3-13 for  
4 the same reasons.

5 Plaintiff Notified the defendant, and Nothing  
6 Was Done.

7 On 2-2-18 Plaintiff filed A Informal  
8 grievance (# 2006-30-61529) stating that  
9 the Lack of toilet Facilities and drinking  
10 water was Preventing me from Accessing the  
11 yard. This "Dog Run yard" (yard), is  
12 A tiny chainlink cage, detached from the  
13 building, Fully exposed to sun, no shade.

14 On 2-22-18 E.A. Thompson denied Plaintiff's  
15 Informal grievance Due to costs associated with  
16 adding water & toilets, defendant Jennifer Nash ("Nash")  
17 was also Aware of the constitutional violation  
18 As Associate warden, "Nash" signed the  
19 Denial of the grievance. As such Plaintiff timely  
20 Appealed to the First Level grievance, which was  
21 Assigned Jointly to Brian Williams and Jennifer  
22 Nash, who Jointly denied Plaintiff's grievance.  
23 Plaintiff timely Appealed to the second level  
24 of the grievance process. Defendant Harold Wickham  
25 sent A Lt. Mureda to investigate the issue.

26 @ About midnite to 0030hrs I was awoken  
27 from my sleep. I explained my position to

1 The Lt. Provided him with the case Law  
 2 Citations. In the 2nd Level grievance  
 3 Response "Wickham" cited the relevant 9<sup>th</sup>  
 4 Circuit case "Hencas" & "Partially granted"  
 5 Plaintiff's grievance stating "I agree having  
 6 toilet Access would be optimal" --- "toilet  
 7 Access on the Yards could Not be accomplished  
 8 without major Construction Projects" ---  
 9 But Wickham refused to grant the Attached  
 10 Administrative Claim Form for Damages, and  
 11 refused to order toilets/water Access  
 12 on the Ad-seg Yard. Each of the above  
 13 Named defendants were Aware of the  
 14 Constitutionally deficient conditions, and  
 15 Failed to Remedy the Lack of toilet/  
 16 drinking water on the Yard. Plaintiff is no  
 17 longer in Segregation, Ad-seg; However this  
 18 ~~Does~~ Does Not moot the Injunctive relief.  
 19 Because There is a Narrow exception to the  
 20 Mootness Principle for "cases capable of repetition  
 21 yet evading review (Weinstein-v- Bradford  
 22 423 U.S. 147 @ 149 [1975]).

COUNT II

The following civil rights has been violated: Negligence - State Law  
Counterpart to Count 1 - NRS 41.031

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Plaintiff selectively incorporates the List  
of Defendants in Count 1 and the Statement  
of Facts in its entirety here in.

As such under Nevada Law, each  
person named had a duty to uphold the  
ordinances, to provide Access to yard with  
water/toilet access, each failed in their  
duties to Plaintiff - these failures are  
the cause of Plaintiff's physiological/psycho-  
logical damages.

Butler Ex. Rel. Miller - v - Bayer 123 Nev. 450  
168 P.2d 1055 @ 1065 Nev. 2007

COUNT III

The following civil rights has been violated: Negligent training/supervision,  
STATE LAW Claim - NRS 41.031

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendant: James Dzurenda. Plaintiff  
Selectively incorporates the statement of  
facts in Count 1 Here in.  
James Dzurenda is The NDOC Director  
conducting Activity through Defendants  
Thompson, Nash, Williams, and Wickham.  
Dzurenda Hired, Appointed and/or retained these  
Agents. upon information and belief, these  
agents are the subjects of numerous  
other civil suits for tortious conduct relating  
to their employment with NDOC. Under  
STATE LAW James Dzurenda Has Failed to train  
and supervise these tortfeasors Both in a negligent  
& Reckless manner. Restatement of Agency (second)  
§ 213. The Nevada Supreme Court has cited Restatement  
(second) of Agency as an authoritative source. se, e.g.-  
Anderson-v-mandalay corp. 358 P.3d 242 @ 247  
NEV. 2015

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the same or similar facts as involved in this action? Yes ☐ No ☒ If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below



COUNT 4

The following civil rights has been violated: Intention Infliction  
of emotional distress - state Law Counterpart  
to Count 1

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

~~Defendants:~~ Plaintiff selectively  
incorporates the Defendants & the statement  
of Facts in Count 1 herein.

As such each one of these defendants  
Failure to execute there pre-existing  
Duties were, extreme, outrageous, and reckless,  
said Failure caused Plaintiff substantial  
Psychological distress, including Sadness, Anxiety/  
Panic Attacks (Extreme Sharp Chest Pain,  
And other physiological Responses), Extreme  
depression/suicidal ideation.

Dillard Dept stores, Inc - v - Beck with  
115 Nev. 372 Nev. 1999.

outline).

- a) Defendants: \_\_\_\_\_
- b) Name of court and docket number: \_\_\_\_\_
- c) Disposition (for example, was the case dismissed , appealed or is it still pending?):  
\_\_\_\_\_
- d) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?  
☒ Yes \_\_\_ No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: Nye County
- b) Name of court and case number: Unknwn - @ CASPC - D-MEU Before Dawson
- c) The case was dismissed because it was found to be (check one): \_\_\_ frivolous \_\_\_ malicious or ☒ failed to state a claim upon which relief could be granted. KJD
- d) Issues raised: Strip Searches
- e) Approximate date it was filed: 12-12-12
- f) Approximate date of disposition: unk-

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: MA
- b) Name of court and case number: \_\_\_\_\_

- c) The case was dismissed because it was found to be (check one): \_\_\_\_\_ frivolous  
\_\_\_\_\_ malicious or \_\_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
\_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_
- b) Name of court and case number: \_\_\_\_\_
- c) The case was dismissed because it was found to be (check one): \_\_\_\_\_ frivolous  
\_\_\_\_\_ malicious or \_\_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
\_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes \_\_\_ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) \_\_\_ disciplinary hearing; (2) \_\_\_ state or federal court decision; (3) \_\_\_ state or federal law or regulation; (4) \_\_\_ parole board decision; or (5) \_\_\_ other \_\_\_\_\_.

If your answer is "Yes", provide the following information. Grievance Number 2006-306-1529  
Date and institution where grievance was filed 2-2-18 - HPSP

Response to grievance: 1st denied First 1st denied 2nd  
1st partially granted

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**E. REQUEST FOR RELIEF**

I believe that I am entitled to the following relief:

Count 1: compensatory \$5,000 Exemplary: \$2,500  
Count 2-4 \$5,000 Each compensatory, \$2,500  
Exemplary. Declaratory Relief, costs, and  
Injunctive relief requiring drinking water/toilets  
be installed on the yard, Any & All relief the  
Court deems necessary, and emergency call  
Buttons be installed on these safe life yards

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

SELF

(Name of Person who prepared or helped  
prepare this complaint if not Plaintiff)

Jesse Ross  
(Signature of Plaintiff)  
Jesse A. Ross  
9-29-18

(Date)

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(Additional space if needed; identify what is being continued)

Se SSE Ross #1095756  
HOSP. P.O. Box 6 SA  
Indian Springs NV. 89470

CLERK  
USDC-D. NEV.

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